



**MILPITAS CITY COUNCIL MEETING AGENDA  
AUGUST 15, 2006**

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**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)  
455 E. CALAVERAS BOULEVARD**

**SUMMARY OF CONTENTS**

- I. ROLL CALL (6:00 p.m.)**
- II. ADJOURN TO CLOSED SESSION**  
**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**  
Pursuant to CA Government Code §54957. Position: City Attorney
- III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code §54957.1, including the vote on abstention of each member present**
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Councilmember Polanski)**
- VI. APPROVAL OF MINUTES (August 1, 2006)**
- VII. SCHEDULE OF MEETINGS**
- VIII. PRESENTATION**  
AbleProject.org – representatives of online service for disabled will make a presentation
- IX. PUBLIC FORUM**  

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Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

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- X. ANNOUNCEMENTS**
- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XII. APPROVAL OF AGENDA**
- XIII. CONSENT CALENDAR (Items with Asterisks)**
- XIV. PUBLIC HEARINGS**
  - 1. Appeal of Planning Commission Decision To Deny Use Permit Amendment No. UA2006-6 to Permit a 12'x18' Dance Floor for King Crab Restaurant Located at 269 W. Calaveras Blvd., APN 022-53-041, Zoned General Commercial (C2) (Staff Contact: Cindy Hom, 586-3284)**



2. Authorize Entertainment Permit for St. John the Baptist Church "Autumn Festival" on September 15-17, 2006 (Staff Contact: Mary Lavelle, 586-3001)
3. General Plan Amendment Denial GP2005-11 and Zone Change Denial ZC2005-2 to Applicant Fairfield Residential LLC (Staff Contact: Dennis Carrington, 586-3275)

**XV. UNFINISHED BUSINESS**

4. Introduction of Ordinance No. 101.19 and Resolution of Intention to Approve an Amendment to Contract Between the Board of Administration California Public Employees' Retirement System and City Council of the City of Milpitas (Staff Contact: Carmen Valdez, 586-3086)
5. Introduction Ordinance No. 262.3 Regarding Open Government and Approve Lobbyist Registration Form (Contacts: Vice Mayor Gomez, 586-3031 and Councilmember Livengood, 586-3027)

**XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

- RA1. Call to Order by the Mayor/Chair
- RA2. Roll Call
- RA3. Approval of Minutes (August 1, 2006)
- RA4. Approval of Agenda and Consent Calendar
- \*RA5. Adoption of Findings and Authorization to Execute a Subordination Agreement for the MP Milpitas Affordable Housing Associates Project (Staff Contact: Diana Whitecar, 586-3059 and Felix Reliford, 586-3071)
- \*RA6. Approve Agreement Amendment No. 2 with Central Pacific Engineering for Sports Center Underwater Pool Lighting, Project No. 8163 and Sports Center Swimming Pool, Project No. 8180 (Staff Contact: Greg Armendariz, 586-3317)
- \*RA7. Authorize City Manager to Execute Agreement Amendment No. 1 with SCS Engineers for the Ground Abatement, Project No. 8154 (Staff Contact: Mark Rogge, 586-3403)
- RA8. Agency Adjournment

**XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES**

**City Council**

6. Consider Endorsement of Two Ballot Initiatives on the November 7 Ballot: Proposition 1E (Flood Prevention) and Proposition 84 (Water Bond) (Contact: Mayor Esteves, 586-3029)
7. Request from the United Way for Financial Support of New 2-1-1 Service (Contact: Mayor Esteves, 586-3029)



- \*8. Approve Mayor's Recommendation for Donation to Student for Junior National Youth Leadership Conference Travel Expense (Contact: Mayor Esteves, 586-3029)
- \* 9. Accept Terrace Gardens, Inc. Annual Financial Report (Contact: Councilmember Debbie Giordano, 586-3032)

**Parks, Recreation and Cultural Resources Commission**

- \*10. Approve One Organizational and One Individual Youth Sports Assistance Fund Grant Requests (Staff Contact: Bonnie Greiner, 586-3227)

**Public Art Committee**

- \*11. Approve Updated City of Milpitas Art Donation Policy, Application and Procedures (Staff Contact: Kathleen Yurchak, 586-3209)

**XVIII. NEW BUSINESS**

- \*12. Approve Certificate Of Compliance No. Cc2006-1 To Legalize Three Developed Lots Located At 1416-1444 Calle Oriente Drive APN 029-05-023, Zoned Multi-Family Residential, High Density, for Applicant Brian Brager (Staff Contact: Cindy Hom, 586-3284)

**XIX. ORDINANCE**

- 13. Introduce Traffic Ordinance 43.204: Amendment to the Traffic Code to Implement Truck Route Restrictions on Milmont Drive between California Circle and Dixon Landing Road and Dempsey Road between Yosemite Drive and S. Park Victoria Drive (Staff Contact: Jaime O. Rodriguez, 586-3335)

**XX. RESOLUTIONS**

- \*14. Approve Resolution Authorizing Bay Area Water Supply and Conservation Agency (BAWSCA) to Represent the City of Milpitas During Wholesale Water Supply Negotiations (Staff Contact: Marilyn Nickel, 586-3347)
- \*15. Resolution Granting Final Acceptance: Singley Area Street Rehabilitation, Project No. 4200, Phase III (Staff Contact: Andrew Brozyna, 586-3315)
- \*16. Resolution Granting Final Acceptance: Great Mall Parkway Street Trees and Median Mulch Renovation, Project No. 4133 (Staff Contact: Greg Armendariz, 586-3317)
- \*17. Resolution Granting Final Acceptance: Great Mall Parkway/I880 Capacity Improvements, Project No. 4178 (Staff Contact: Greg Armendariz, 586-3317)

**XXI. BIDS AND CONTRACTS**

- \*18. Approve Subdivision Improvement Agreement, Final Map and Public Improvement Plans for Apton Plaza, Tract No. 9690, Project No. 3144 (Staff Contact: Mehdi Khaila, 586-3328)
- \*19. Authorize Re-advertisement for bids for the Montague Expressway Eastbound Median Modification Between Piper Drive and Gladding Court, Project No. 4179 (Staff Contact: Greg Armendariz, 586-3317)



- \*20. Approve Agreement with Norcal Waste Services for Debris Box (Staff Contact: Marilyn Nickel, 586-3347)
- \*21. Approve Contract With Skyhawks Sports Programs for Summer 2006 Sports Camps (Staff Contact: Dale Flunoy, 586-3228)
- \*22. Award Bid For ADA Pedestrian Ramps to Sposeto Engineering (Staff Contact: Chris Schroeder, 586-3161)

**XXII. CLAIMS AND DEMANDS**

- \*23. Approve Payment of the CAL-ID Invoice to the City of San Jose in the Amount of \$58,275 (Staff Contact: David Rossetto, 586-2405)

**XXIII. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, SEPTEMBER 5, 2006 AT 7:00 P.M.**

**KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035  
E-mail: [ppioroda@ci.milpitas.ca.gov](mailto:ppioroda@ci.milpitas.ca.gov) / Fax: 408-586-3030 / Phone: 408-586-3040

*A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov), select Open Government Ordinance under News Features.*

**BECOME A CITY COMMISSIONER!**

Currently, there are openings on the following Commissions:

*Community Advisory Commission  
Economic Development Commission (Hotel Rep)  
Planning Commission (alternate)  
Mobile Home Park Rental Review Board (alternate)*

Applications are available online at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) or outside the City Council Chambers. Contact the City Clerk's Office (586-3003) for information.



## AGENDA REPORTS

### XIV. PUBLIC HEARINGS

**1. Appeal of Planning Commission Decision To Deny Use Permit Amendment No. UA2006-6 for a 12'x18' Dance Floor For King Crab Restaurant Located At 269 W. Calaveras Blvd. APN 022-53-041, Zoned General Commercial (C2) (Staff Contact: Cindy Hom, 586-3284)**

**Background:** The Planning Commission held a public hearing for on June 28, 2006 to consider a use permit amendment to add a 12'x18' dance floor to an existing full service restaurant that would be used during banquets and wedding receptions only. The Planning Commission denied the application because the proposal is inconsistent with Finding No. 3 of the Planning Commission Staff Report dated June 28, 2006 based on the following:

1. 30 Minute Parking Signs and Patron Parking Directional Signs have been installed but are not effective in discouraging patrons of Calaveras Plaza from parking in the adjacent shopping center Milpitas Center.
2. A total of 69 parking stalls were approved with a parking reduction over time to accommodate the restaurant uses within Calaveras Plaza including King Crab.

The applicant is requesting to appeal the denial to City Council for the following reasons:

1. Parking requirements were approved per use permit P-UA2003-7 on June 11, 2003. No violation has been sited ever.
2. The use for the dance floor application would be limited to banquets and wedding receptions that are held during evening hours and on weekends.
3. The dance floor requires no additional parking per the Milpitas Zoning Ordinance.
4. The denial was based on parking during the peak lunch hours. However, the use of the proposed dance floor would occur during the evening hours, which do not exhibit a parking problem.
5. The denial does not resolve lunch hour parking problems and would restrict the applicant's ability to compete with other regional vendors for wedding banquet business.
6. All other concerns as discussed by the Planning Commissioners can be mitigated by the restaurant owner if those become an issue.

**Recommendation:**

1. Close the Public Hearing.
  2. Uphold the Planning Commission's denial of Use Permit Amendment No. UA2006-6 or approve Use Permit Amendment No. UA2006-6 based on the Findings and Special Conditions.
- 2. Authorize Entertainment Permit for St. John the Baptist Church "Autumn Festival" on September 15-17, 2006 (Staff Contact: Mary Lavelle, 586-3001)**

**Background:** St. John the Baptist Catholic Church submitted an application for an Entertainment Event Permit to hold its second Autumn Festival on church grounds at 279 S. Main Street (between Abel and Main Streets) over the weekend, Friday – Sunday, September 15-17, 2006. Hours will be from 5:00 – 11:00 PM on Friday, 11:00 AM to 10:00 PM on Saturday, and 11:00 AM to 8:00 PM on Sunday. Additionally, St. John's requests a waiver of the Fire Inspection and permit fee (approximately \$400).

The application was reviewed and approved by appropriate City departments and the public hearing advertised as required by municipal code. Appropriate conditions were stated by the



Departments. Also, a current insurance certificate is required to be submitted to the City prior to the start of the festival.

**Recommendation:** Move to approve the Entertainment Event Permit, including fee waiver, for St. John the Baptist Catholic Church's second "Autumn Festival" on September 15-17, 2006.

**3. General Plan Amendment Denial GP2005-11 and Zone Change Denial ZC2005-2 to Applicant Fairfield Residential LLC (Staff Contact: Dennis Carrington, 586-3275)**

**Project Description:** A request by Fairfield Residential LLC for a General Plan Amendment (GP2005-11) from the Industrial Park designation to the Multi Family High Density Residential and a Zone Change (ZC2005-2) from Industrial Park to Multi Family High Density Residential. The applicant is also requesting a modification of the Development Agreement between the City of Milpitas and Octel Communications Corporation pursuant to Section 10 of that document.

**Background:** The project site is located on a vacant and level 21.73-acre site bounded on the east by Murphy Ranch Road, the north by Technology Drive, the south by the Hetch Hetchy aqueduct and on the west by Coyote Creek. KLA Tencor is located to the north, Maxtor/Seagate and SanDisk to the east, and Intersil, Phoenix Technologies and Avaya are located to the south. Cisco Systems is located nearby to the east. Each of these companies provides a significant economic base for the City of Milpitas. If the rezone and General Plan Amendment are allowed to go forward, the applicant plans to proceed with a 659 unit residential project under a separate permit process. An aerial photo of the subject site and vicinity is provided below:





## PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this item at its meeting of July 26, 2006, and voted 6 –0 with one absence to recommend that the City Council deny General Plan Amendment (GP2005-11) from the Industrial Park designation to the Multi Family High Density Residential and deny Zone Change (ZC2005-2) from Industrial Park to Multi Family High Density Residential.

## THE APPLICATION

This application for a zone change is submitted pursuant to Section 62, “Amendments” of the Zoning Ordinance and the application for a General Plan Amendment is submitted pursuant to Chapter 1.5 of the General Plan, “Amendments to the General Plan”. The applicant is also requesting a modification of the Development Agreement between the City of Milpitas and Octel Communications Corporation pursuant to Section 10 of that document. The Development Agreement, which does not expire until August 2007 and as described further in this report, is intended for the long-term build out of the property for business park and research and development uses.

## ENVIRONMENTAL REVIEW

Staff is recommending denial of the proposed General Plan Amendment, Zone Change and amendment to the Development Agreement between the City of Milpitas and Octel Communications Corporation because of conflicts with the General Plan and planning practice. Section 15270 of the California Environmental Quality Act Guidelines (CEQA) states that CEQA does not apply to projects, which a public agency rejects or disapproves. It is not necessary to expend developer funds on the review of an Environmental Impact Report when it is known that the project will be recommended for denial. In the view of staff it is much better to address the issues of the General Plan Amendment and Zone Change prior to addressing environmental review or the merits of the project.

## REASONS FOR DENIAL OF REQUESTED GENERAL PLAN AMENDMENT AND REZONE

### Land Use Conflicts

The proposed change in land use, from Industrial Park to residential, would create significant land use conflicts. Residential development adjacent to industrial uses can discourage business expansion, relocation or conversion to accommodate new technologies and processes. This, in turn, creates job loss, decreased property values, reduced tax revenues and even business relocations.

Industrial properties in close proximity to residential are less attractive to companies looking for new sites. Adjacent residents may oppose business plans for expansion or to introduce or increase hazardous materials or industrial processes. Residents are also at greater risk for accidental exposure of hazardous materials.

The project site is surrounded by five of the City’s top ten economic producers:

<b>Rank</b>	<b>Company</b>
1st	Cisco Systems
4th	Maxtor/Seagate
5 <sup>th</sup>	KLA Tencor
8 <sup>th</sup>	SanDisk
9 <sup>th</sup>	Intersil

These companies, and others in the vicinity, may well decide not to expand or change their industrial processes and may decide to move elsewhere if there is resistance from nearby residents to their expansion plans or process changes.

### Long Term Impacts



Because of short-term market forces, it is currently financially attractive for private investors to consider converting industrial properties to residential. However, the economic benefits are short lived when compared to the long term costs to the local economy and municipal operations. Maintaining an inventory of prime industrial land will assure that Milpitas' business community will continue to grow and adapt to changing market and technology conditions.

#### **City's Reputation As High Tech Center**

The General Plan is the "blueprint" for Milpitas' future. The Milpitas General Plan was instrumental in creating the City's current reputation as a dynamic high tech center. City decision-makers insured that there was sufficiently large tracts of land reserved for research and development and clean industrial uses. The project site is located in an industrial area with sufficient acreage to encourage the development of industrial "campuses" and corporate headquarters. The proposed general plan amendment will reduce the amount of land set aside for these uses thus weakening Milpitas' reputation as a top provider of jobs and as a prime location for corporate high tech headquarters in Silicon Valley.

#### **General Plan Conflicts**

The proposed conversion of industrial land to residential use conflicts with policies of the General Plan.

<b>General Plan Policy</b>	<b>Analysis</b>
2.a-G-1. Maintain a land use program that balances Milpitas' regional and local roles by providing for a highly amenable community environment and a thriving regional industrial center.	The proposed project will negatively impact Milpitas' position as a thriving industrial center by limiting the future supply of prime industrial land. Further, the presence of new residential populations adjacent to existing high-tech companies could discourage business expansions, updates and relocation.
2.a-G-2. Maintain a relatively compact urban form.	Residential, commercial and civic land uses should be located close together to foster a walkable, healthy, mixed-use environment. High density residential development at a distance from other residential, commercial and land uses would diffuse the existing compact urban form of the City of Milpitas and isolate residents from essential facilities such as parks, schools, libraries, neighborhood commercial uses and day care. The City, with the adoption of the Midtown Specific Plan and the Draft Transit Area Specific Plan, provides for multi-family residential in an effort to achieve a "compact urban form".
2.a-G-5. A park-like setting will be created by a series of local parks, school sites, trails, and a greenway system laced throughout all living areas.	The proposed 659-unit apartment and condominium development would be located in a setting isolated of local parks and schools. The project will be located along a regional trail that parallels Coyote Creek, however the development will still be isolated from other parks that provide playfields, recreation and picnic areas.
2.a-I-3. Encourage economic pursuits which will strengthen and promote development through stability and balance.	The conversion of industrial to residential use would discourage economic development growth in the City by removing prime industrial sites for future high tech value-added companies and add land uses that are an economic drain on the City. If Milpitas is to continue as a major player in the Silicon Valley of the future it must retain its industrial economic base.
2.a-I-5. Maintain policies that promote a strong economy which provides economic opportunities for all Milpitas residents within existing	The conversion of Industrial Park land to residential use would diminish economic opportunities for Milpitas residents because sites for future jobs would be replaced by housing. Job expansion at nearby high tech firms would be discouraged if they anticipate complaints from nearby



environmental, social, fiscal and land use constraints	residents.														
2.a-I-7. Provide opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention.	Locating residents adjacent to some of Milpitas' most important industrial firms will discourage business expansion and business retention.														
2.b-I-2. Consider locating housing in close proximity to industrial developments <i>where they can be served by existing city services and facilities.</i> (Emphasis added by staff)	<p>The proposed residential project is not located within easy walking distance to parks, schools, libraries, neighborhood commercial uses or day care.</p> <table border="1"> <thead> <tr> <th>Walking Distance From Project (In Miles)</th><th>Use</th></tr> </thead> <tbody> <tr> <td>0.6</td><td>Retail/grocery store</td></tr> <tr> <td>0.8</td><td>Light rail</td></tr> <tr> <td>1.4</td><td>Park</td></tr> <tr> <td>1.4</td><td>School</td></tr> <tr> <td>1.8</td><td>Library (new site)</td></tr> <tr> <td>1.0</td><td>Day care</td></tr> </tbody> </table>	Walking Distance From Project (In Miles)	Use	0.6	Retail/grocery store	0.8	Light rail	1.4	Park	1.4	School	1.8	Library (new site)	1.0	Day care
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#### **Octel Development Agreement**

A Development Agreement between the City of Milpitas and Octel Communications Corporation was entered into on August 19, 1997 and will expire August 2007. The agreement states that Octel Communications Corporation and the other owners of the Milpitas Business Park lands intend to build a "multi owner corporate facility" that would comply with the restrictions set forth in the Milpitas General Plan, the Milpitas zoning ordinances, applicable Milpitas Municipal Code regulations, Milpitas Business Park Master Plan and any other "Land Use Regulations". The general plan and zoning ordinances designated the land as Industrial Park. The Milpitas Business Park Master Plan stated that the land proposed to be developed by Fairfield Residential LLC would be used for office, research and development, hotel, and other commercial land uses. The Fairfield Residential LLC development would not be consistent with the Development Agreement and could not be approved unless the City and Octel Communications Corporation (or its successor in interest) by mutual agreement terminate or amend the terms of the agreement pursuant to California Law for the adoption of development agreements.

#### **Not "Smart Growth"**

The applicant has described the project as an example of "Smart Growth". However, Smart Growth places walkable multiple land uses, such as residential, parks, schools, neighborhood commercial, day care, transit, and to a limited extent, industrial, where the uses are mutually supportive and conflicts are avoided. The proposed general plan amendment and zone change would place a high-density multi-family residential use adjacent to long established high-tech industrial uses without comfortable walking access to parks, schools, neighborhood commercial uses or day care. Although a specialty regional shopping center is located to the east, it does not provide the neighborhood commercial uses desired by residents. Although the project is adjacent to a regional trail, there is no access to neighborhood parks. Although the project in the vicinity of a transit stop, it is not an easy walking distance for children or the elderly. There is little likelihood that the housing provided by this project would be used by those employed locally. Further, any affordable housing provided by the project would go to those who do not enjoy employment in the high-tech sector of the economy.

#### **Conversion Precedent**

If the Fairfield project is approved, it is inevitable that additional residential conversion proposals will be submitted for nearby properties. Developers have inquired about converting industrial land south of the subject project to residential. An example of the precedent-setting potential is the Sinclair Horizons project on Los Coches Street. Property designated Manufacturing and Warehousing on the General Plan was converted and developed as the Sinclair Horizons



residential project. The developer has indicated they will soon be submitting a proposal to convert more industrial land south of Sinclair Horizons to residential.

#### **Hazardous Materials Exposure**

The proposed residential land use would place 659 residences adjacent to high-tech businesses that may use hazardous materials in current or future manufacturing processes. In the event of an accident, residents may be exposed to hazardous materials with disastrous results. A catastrophic event, such as an earthquake or fire, could have tragic consequences.

#### **Economic Plan Conflict**

A goal of the City of Milpitas 2005 Economic Strategic Action Plan is to: “Retain and support the success of existing and new businesses”. Objective 4 under that goal seeks to “Retain and expand existing Milpitas-based companies.” As previously discussed, the proposed project could discourage the retention and expansion of existing businesses in the area.

#### **Residential Development**

It is anticipated that approximately 3,500 dwelling units will be constructed during the life of the Midtown Specific Plan. Approximately 7,200 units are proposed for the Transit Area Specific Plan. Together, the plans will provide 10,700 dwelling units. There is sufficient developable land within these two specific plans to provide for Milpitas’ residential needs for the foreseeable future. It is not necessary to convert valuable industrial park land to residential uses to provide for Milpitas’ housing needs.

#### **Wastewater Treatment Capacity**

There is limited wastewater treatment capacity in the City of Milpitas. The proposed project does not meet the criteria to receive the remaining wastewater treatment capacity. The project is further than 1.1 mile from the nearest elementary school (Spangler), is not located adjacent to existing residential land uses and does not include a mixed-use component as required in the Milpitas Municipal Code.

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**Recommendation:** The Planning Commission recommends that the City Council deny General Plan Amendment (GP2005-11) redesignating 21.73 acres from Industrial Park to Multi Family High Density Residential and deny Zone Change (ZC2005-2) from “MP” Industrial Park to “R3” Multi Family High Density Residential.

#### **Findings for Denial**

1. The general plan amendment and rezone from Industrial Park to residential use would create unacceptable conflicts between land uses.
2. The proposed project would have negative impacts upon the potential expansion of and business plans of surrounding businesses.
3. The project vicinity is one of the last remaining areas for growth in the City’s technology and business sector and for the City to maintain its position in Silicon Valley.
4. The conflict between residential uses at this site and the existing high profile technology companies could have negative economic impacts on the City for years to come.
5. The project is in conflict with the Milpitas General Plan.
6. The project is not “Smart Growth” but a proposal to place residential uses in a location isolated from essential services such as parks, schools, libraries, neighborhood commercial uses or day care.



7. The proposed residential land use is in conflict with the existing industrial park uses to the north, east and south of the development and could expose residents to hazardous materials releases during earthquakes or fires. ← - - - Formatted: Bullets and Numbering
8. The proposed project would have negative impacts to the long-term expansion of Milpitas' research and development/technology base.
9. The proposed project would be in conflict with the Milpitas Economic Development plan that seeks to retain and support the success of existing and new businesses. ← - - - Formatted: Bullets and Numbering
10. The proposed project would erode the City's economic base by converting industrial park lands to residential uses. ← - - - Formatted: Bullets and Numbering
11. There is limited available wastewater treatment capacity in the City of Milpitas. The proposed project should not receive scarce wastewater treatment capacity because it is farther than 1.1 miles from the nearest elementary school (Zanker) (2.4 miles by roadways), is not located adjacent to existing residential land uses and does not include a mixed-use component as described in the Milpitas Municipal Code. Other projects that meet these criteria should receive the limited wastewater treatment capacity that remains. ← - - - Formatted: Bullets and Numbering
12. The proposed project could subject the City of Milpitas to potential litigation similar to that over McCarthy Ranch in the past. ← - - - Formatted: Bullets and Numbering
13. It is not necessary to convert Industrial Park lands to residential development because the 10,700 housing units proposed in the Midtown Specific Plan and the proposed Transit Area Specific Plan will provide for Milpitas' residential needs for the foreseeable future.

## XV. UNFINISHED BUSINESS

### 4. Introduction of Ordinance No. 101.19 and Resolution of Intention to Approve an Amendment to Contract Between the Board of Administration California Public Employees' Retirement System and City Council of the City of Milpitas (Staff Contact: Carmen Valdez, 586-3086)

**Background:** As a result of contract negotiations between the City and the Milpitas Police Officers' Association finalizing the Memorandum of Understanding for the period of July 1, 2005 - December 31, 2007, both parties agreed that the City would amend its contract with the Public Employees Retirement System (PERS) to provide Section 21548 (Pre-Retirement Optional Settlement 2 Death Benefit) and Section 21574 (Fourth Level of 1959 Survivor Benefits) for local police members only. PERS contract amendment procedures require an adoption of a Resolution of Intention to amend the contract and adoption of an amending Ordinance. PERS further recommends that the City disclose the following costs:

#### Section 21548:

- 1) Change in Present Value of Benefits ..... \$151,245
- 2) Change in the Accrual Liability ..... \$100,775
- 3) Change in the total Employer Rate ..... 0.079%

#### Section 21574:

- 1) First Year Employer Normal Cost ..... \$5447
- 2) 5-Year Amortization of Unfunded Liability/Excess  
Asset payment (fixed for 5 years) ..... \$(15,991)
- 3) First Year Total Employer Cost ..... \$0

#### **Recommendation:**

1. Adopt the City of Milpitas Resolution of Intention
2. Waive the first reading beyond the title of Ordinance 101.19
3. Introduce Ordinance No. 101.19



**5. Introduction of Ordinance No. 262.3 Regarding Open Government and Approve Lobbyist Registration Form (Contacts: Vice Mayor Gomez, 586-3031 and Councilmember Livengood, 586-3027)**

**Background:** The Council's Open Government Subcommittee has discussed the lobbyist registration section of the Open Government ordinance (Milpitas Municipal Code I-310- 3.10). At the June 7<sup>th</sup> meeting, Councilmembers asked the City Attorney for suggested language to clarify the definition of the term "lobbyist" in order to exclude employees of local governments. On July 12<sup>th</sup>, the City Attorney presented that language.

Attached in Council's agenda packet is the draft ordinance prepared by the City Attorney with an expanded definition of lobbyist. This ordinance is prepared and presented along with a draft lobbyist registration form. The draft registration form prepared by the City Clerk was reviewed at two Subcommittee meetings in July and August, and has been reviewed for form by the City Attorney's office.

The Subcommittee recommends that the City Council approve the new lobbyist definition and approve the use of the new lobbyist registration form, and to require lobbyists to register with the City Clerk's office starting on January 1, 2007.

**Recommendation:**

1. Waive First Reading Beyond the Title of Ordinance No. 262.3
2. Introduce Ordinance No. 262.3 amending the definition of lobbyist.
3. Discuss lobbyist registration form. Amend if needed, or, approve form and implement schedule for lobbyist registration in Milpitas.

**XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

- RA1. Call to Order by the Mayor/Chair**
- RA2. Roll Call**
- RA3. Approval of Minutes (August 1, 2006)**
- RA4. Approval of Agenda and Consent Calendar**
- \*RA5. Adoption of Findings and Authorization to Execute a Subordination Agreement for the MP Milpitas Affordable Housing Associates Project (Staff Contact: Diana Whitecar, 586-3059 and Felix Reliford, 586-3071)**

**Background:** In December 2005, the Redevelopment Agency approved a Disposition and Development Agreement ("DDA") with MP Milpitas Affordable Housing Associates (an affiliate of Mid Peninsula Housing Coalition) for the construction of a 103-unit low-income senior apartment project (the "Project") at 163 North Main Street (the "Property"). The Project will incorporate the historic DeVries Home into the housing development. In connection with its approval of the DDA, the Agency agreed to provide a \$1 million grant and a loan (the "Agency Loan") in the maximum amount of \$14.6 million, funded in part by a \$5 million contribution from KB Homes.

U.S. Bank, construction and permanent lender for the Project, has asked the Agency to subordinate certain documents executed in connection with the Agency Loan and the conveyance of the Property. The Bank has indicated it is unwilling to provide financing (approximately \$17 million) for the Project without such an agreement. If the Agreement is approved, and if the Bank were to foreclose following an uncured developer default, the Bank would have the ability to eliminate certain of the Agency's requirements including the affordability and senior occupancy restrictions, the obligation to complete



the Project in accordance with the DDA, certain indemnity provisions, and the Agency's reversionary right to reacquire the Property in the event of default.

However, the Bank documents include a number of protections pursuant to which such an outcome could be avoided. In addition to providing cure rights to the Developer and the Developer's investor partners, the Bank documents permit the Agency to cure defaults and to purchase the Bank loan. In addition, the Agency is permitted to request a transfer of the Property and assumption of the Bank loan by the Agency or another approved developer. Furthermore, following issuance of a certificate of occupancy for the Project, the Project investors will make a substantial equity contribution to the Project, and the balance of the Bank loan will be reduced to approximately \$1.5 million. At that time, the risk of default under the Bank documents will be significantly reduced.

As detailed in the Resolution (in the agenda packet), California Community Redevelopment Law permits subordination of affordability restrictions when financing would be otherwise unavailable and when the senior lender provides measures that protect the Agency's investment. The proposed subordination agreement provides the Agency with notice and cure rights, an option to purchase the senior loan, and the right to request assumption of the loan and transfer of the Property to the Agency or another approved developer. In addition, the agreement provides that Agency consent would be required for any amendment to the senior documents that would increase the amount, the interest rate or the term of the senior loan. The proposed agreement also provides that the Agency will disburse the final installment of the Agency Loan provided that there is no uncured payment default under the Agency documents, and provided further that in the event that the Bank has foreclosed, the Agency Affordable Housing Regulatory Agreement will remain in effect.

Based on the foregoing, staff recommends approval of the Subordination Agreement.

**Recommendation:**

Adopt a Resolution making Findings and Authorizing Execution of a Subordination Agreement for the MP Milpitas Affordable Housing Associates Project.

**\*RA6. Approve Agreement Amendment No. 2 with Central Pacific Engineering for the Sports Center Underwater Pool Lighting, Project No. 8163 and Sports Center Swimming Pool, Project No. 8180 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** On May 17, 2005, City Council awarded a consultant contract to Central Pacific Engineering, Inc. for engineering design and construction support for the replacement of the yard pool underwater lights at the Sports Center, Project No. 8163, as required by California Health Code, Section 3114B. On November 15, 2005, City Council approved agreement amendment No. 1 to Central Pacific Engineering for additional services to provide construction support for the resurfacing of the pools (Project No. 8180). During construction of the project, additional services were required:

1. Evaluation and recommendation of ground resistance test results of the swimming pool appurtenances to determine if all appurtenances were properly grounded to provide safety of the pool staff and patrons.
2. Evaluation and recommendation of the test results of (pre-existing) cracks found within the pool shell after removal of the old plaster surface.

Staff has negotiated a not to exceed fee of \$3,555, which is considered reasonable for the additional services. Project No. 8163 was scheduled to be closed at the end of FY 2005-06. However, it is recommended that Project No. 8163 remain open until Mid FY 2006-07, sufficient funds are available in the project budget.

**Recommendation:**



1. Approve an agreement amendment No. 2 with Central Pacific Engineering in the amount of \$3,555, subject to approval by City Attorney as to form.
2. Authorize Project No. 8163 to remain open.

**\*RA7. Authorize the City Manager to Execute Agreement Amendment No. 1 with SCS Engineers for the Ground Abatement Project No. 8154 (Staff Contact: Mark Rogge, 586-3403)**

**Background:** This project is included in the current five-year Capital Improvement Program (CIP). The project's goals are to mitigate potential environmental impacts on the library site. SCS Engineers was selected to perform a comprehensive environmental review of the site, prepare plans for abatement of hazardous material, coordinate with the County Department of Environmental Health, and prepare necessary reports. Abatement of asbestos, lead, mold, and other building related hazardous material has been completed. Abatement of lead, arsenic, and pesticides in the ground is also nearing completion.

One part of the work focused on an "open case" to resolve petroleum leakage from two former underground service tanks that the City RDA took over when it acquired the former Winsor properties for the library and garage site. SCS performed the investigation required by the County regulatory agency and prepared a subsequent work plan. The plan requires installation of three monitoring wells and ongoing monitoring.

An amendment to design, install, and monitor the wells is recommended. The actual well installation will be done following construction of the garage, to avoid disruption or damage to the wells during garage construction. Staff has negotiated an amendment for these services in an amount not to exceed \$120,000. There are sufficient funds in the project budget for these purposes.

**Recommendation:** Authorize the City Manager to execute agreement amendment no. 1 with SCS Engineers for an amount not to exceed \$120,000, for monitoring wells and other work associated with closure of the environmental case on the former Winsor parcels, Ground Abatement Project No. 8154.

**RA8. Agency Adjournment**

**XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES**

**City Council**

**6. Consider Endorsement of Two Ballot Initiatives on the November 7 Ballot: Proposition 1E (Flood Prevention) and Proposition 84 (Water Bond) (Contact: Mayor Esteves, 586-3029)**

**Background:** Mayor Esteves received a letter from the Santa Clara Valley Water District expressing the District's support for the two ballot propositions. Material is included in the Council agenda packet describing the two bond items on the ballot in the fall election. Mayor Esteves requests that the City Council consider taking a position on these issues.

**Recommendation:** Discuss merits of Propositions. If appropriate, move to endorse statewide Proposition 1E and Proposition 84.

**7. Request from the United Way for Financial Support of New 2-1-1 Service (Contact: Mayor Esteves, 586-3029)**

**Background:** On August 2, 2006, the City Council's Finance Subcommittee heard the request from the United Way for support of a brand new effort - countywide 2-1-1 communication service. One of the members was favorable toward making financial support. Should the City



Council support this request, additional funding needs to be appropriated for \$10,000 from the unreserved, undesignated fund balance.

The United Way will present an overview of the program, set to debut in Santa Clara County in early 2007, at the City Council meeting.

Mayor Esteves requests that the City Council consider making a financial commitment to this unique service, for the benefit of Milpitas citizens and the daytime employee population.

**Recommendation:** Move to support 2-1-1 service. Motion may include approval of contribution of \$10,000 (or other amount) to the United Way as Milpitas' commitment to the first year of this service.

**\* 8. Approve Mayor's Recommendation for Donation to Student for Junior National Youth Leadership Conference Travel Expense (Contact: Mayor Esteves, 586-3029)**

**Background:** Mayor Esteves received a request for a donation to Milpitas student Christine Tran, who was selected to attend a Washington, D.C. conference for the Junior National Youth Leadership Conference. Tran is a Sinnott Elementary school student in the 6<sup>th</sup> grade.

If approved, funding would be allocated from the City Council's unallocated Community Promotions budget for Fiscal Year 2006-07. Current balance for FY 2006-07 is \$10,000.

**Recommendation:** Approve the Mayor's recommendation of a donation in the amount \$500.00 to Christine Tran for registration and travel costs in connection with her attendance at the Junior National Youth Leadership Conference in Washington, D.C. later this year.

**\* 9. Accept the Terrace Gardens, Inc. Annual Financial Report (Contact: Councilmember Debbie Giordano, 586-3032)**

**Background:** Included in the agenda packet is the Annual Financial Report for Terrace Gardens, Inc., submitted to the City Council for review. The financial statements report the financial position and activities for the fiscal years 2005 and 2004, ended on December 31. The independent auditor's report concludes that the financial statements fairly present the financial position of Terrace Gardens, Inc. in conformity with generally accepted accounting principles.

**Recommendation:** Receive the Terrace Gardens annual financial report.

**Parks, Recreation and Cultural Resources Commission**

**\*10. Approve One Organizational and One Individual Youth Sports Assistance Fund Grant Requests (Staff Contact: Bonnie Greiner, 586-3227)**

**Background:** On June 20, 2006, the Milpitas City Council approved; and appropriated \$8,000.00 for the Youth Sports Assistance Fund for the 2006-2007 budget year. Included in the Council packet for review and consideration are two Organizational Youth Sports Grant applications and one Individual Youth Sports Grant application.

One Organizational Youth Sports Grant application was received from the Milpitas Tidal Waves, requesting \$1000.00 to offset costs of traveling to Monterey, CA on September 2-9, 2006 for a swim meet including camping, meals and other related travel expenses.

One Individual Youth Sports Grant application was received from Martin McKeefery, requesting \$500.00 to offset costs of entry fee and lodging for the World Finals Racing in Sonoma on November 10-11, 2006.



Applicants meet the eligibility for the grant process. Staff reviewed the items requested and found that the requested items meet the application guidelines, under the section, Acceptable Funding consideration will be given, item #2 states; "As an event occurring where additional funding is required for a special event where participants are advancing beyond the normal spectrum of league play, hence additional expenses."

There is a current balance of \$8,000.00 in the 2006-07 Youth Sports Assistance Fund.

The Parks, Recreation and Cultural Resources Commission (PRCRC) reviewed the applications on August 7, 2006, and recommended that the grant applications be forwarded to Council for approval.

**Recommendation:** Approve one Organizational Youth Sports Grant for the Milpitas Tidal Waves for \$1,000 and one (1) Individual Youth Sports Grant for \$500.00 to Martin McKeefery, leaving a balance of \$6,500.00 for the remainder of the fiscal year.

#### **Public Art Committee**

- \*11. Approve Updated City of Milpitas Art Donation Policy, Application and Procedures (Staff Contact: Kathleen Yurchak, 586-3209)**

**Background:** At the July 24, 2006, Public Art Committee meeting, the Committee reviewed and approved the updated changes to the City of Milpitas Art Donation Policy, Application and Procedures. These changes are required in order to have a consistent public art process. With the approval of these changes, the Public Art Committee will review the Applications and make recommendations to the City Council versus the Arts Commission, as originally indicated.

Included in the Council's agenda packet is the updated City of Milpitas Art Donation Policy, Application and Procedures. Stricken out text indicates the information that will be removed and replaced with the text with double underlines. Also included in the Council's agenda packet is a copy of the July 24, 2006 Unapproved Minutes of the Public Art Committee meeting.

**Recommendation:** Approve the updated City of Milpitas Art Donation Policy, Application and Procedures.

#### **XVIII. NEW BUSINESS**

- \*12. Approve Certificate of Compliance No. Cc2006-1 To Legalize Three Developed Lots Located At 1416-1444 Calle Oriente Drive, APN 029-05-023, Zoned Multi-Family Residential, High Density for Applicant Brian Brager (Staff Contact: Cindy Hom, 586-3284)**

**Background:** This is a request for a Certificate of Compliance for the three lots located at 1416-1444 Calle Oriente Drive. The three parcels are identified as lots "C" (1416 ), "D" (1430) and "E" (1444) on the exhibit included in the Council's agenda packet. In May 1964, a grant deed and a Record of Survey Map were recorded that show the three subject lots as individual parcels. An overview of property ownership is summarized in the applicant's letter and provided as an attachment with this report.

Staff's review of this application concluded that the three subject parcels were created in 1964 after the adoption of the City's subdivision ordinance. Per the Subdivision Map Act and based upon the findings, a Conditional Certificate of Compliance can be granted to lots "C", "D", and "E." The Conditional Certificate of Compliance enables the City to impose conditions to ensure orderly development of the subject lots and conformance with the City's Subdivision Ordinance and development standards. The applicant reviewed, and is in agreement, with the conditions.



**Recommendation:** Approve the Certificate of Compliance (P-CC2006-1) for the requested three developed lots and to make them legal lots of record, based on the findings and special conditions contained in the Council's agenda packet.

## **XIX. ORDINANCE**

### **13. Introduce Traffic Ordinance 43.204: Amendment to the Traffic Code to Implement Truck Route Restrictions on Milmont Drive between California Circle and Dixon Landing Road and Dempsey Road between Yosemite Drive and So. Park Victoria Drive (Staff Contact: Jaime O. Rodriguez, 586-3335)**

**Background:** Section V-100-15.12 of the Milpitas Municipal Code identifies streets that are exempt from a 4-ton vehicle maximum gross weight limit, allowing trucks to drive on those streets without a permit from the Milpitas Police Department.

The entire portion of Milmont Drive is currently identified in this section as a street exempt from a weight restriction, but truck route restriction signs exist in the field between California Circle and Dixon Landing Road, causing a discrepancy that does not allow for police enforcement. This section of Milmont Drive is entirely residential and a 4-ton maximum gross weight limit restriction is appropriate.

Active street improvements along S. Park Victoria Drive include a future time-of-day left-turn restriction from Dempsey Road onto northbound S. Park Victoria Drive to be implemented at the end of August 2006. To avoid conflicts with truck movements, a 4-ton vehicle weight limit on Dempsey Road between Yosemite Drive and S. Park Victoria Drive is required. Trucks can still access the industrial area west of I-680 using either Yosemite Drive or Calaveras Blvd to S. Hillview Drive or S. Milpitas Blvd. Trucks providing delivery service to existing businesses on or along Dempsey Road are exempt from the restriction, so no impact is provided.

**Recommendation:**

- 1) Waive the first reading Beyond the title of Ordinance No. 43.204.
- 2) Introduce Traffic Ordinance No. 43.204, an Amendment to the Traffic Code to implement Truck Route Restrictions on Milmont Drive between California Circle and Dixon Landing Road and Dempsey Road between Yosemite Drive and S. Park Victoria Drive.

## **XX. RESOLUTIONS**

### **\*14. Approve Resolution Authorizing Bay Area Water Supply and Conservation Agency (BAWSCA) to Represent the City of Milpitas During Wholesale Water Supply Negotiations (Staff Contact: Marilyn Nickel, 586-3347)**

**Background:** The City of Milpitas, along with 27 other water retailers, has two water supply contracts with the City and County of San Francisco that expire on June 30, 2009. Several years ago, these water retailers grouped together and formed an association currently known as Bay Area Water Supply and Conservation Agency (BAWSCA). BAWSCA staff has met with the water retailers and identified several common goals for discussion during the upcoming contract negotiations with the City and County of San Francisco. The negotiating position of the 27 retail agencies will be increased substantially if they are united. BAWSCA staff has offered to put together and manage the negotiating team. A letter describing the services and a Resolution authorizing the representation are included in the Council packet.

**Recommendation:** Approve a Resolution authorizing the Bay Area Water Supply and Conservation Agency to represent the City of Milpitas during the contract negotiations.

### **\*15. Resolution Granting Final Acceptance: Singley Area Street Rehabilitation, Project No. 4200, Phase III (Staff Contact: Andrew Brozyna, (408) 586-3315)**



**Background:** This project, which was initially accepted on May 17, 2005, has passed the one-year warranty period. A satisfactory final inspection has been made of the public improvements that include replacement of existing curb, gutter, sidewalks, driveways, ramps and asphalt concrete paving sections and installation of a subsurface drainage system with storm drain pipes and drainage inlets in various roadway segments in the Singley Area to relieve ground water pressure. Therefore, the Council may grant final acceptance and release the contractor's bond.

**Recommendation:** Adopt Resolution granting final acceptance and releasing the contractor's bond for Project No. 4200.

**\*16. Resolution Granting Final Acceptance: Great Mall Parkway Street Trees and Median Mulch Renovation, Project No. 4133 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** This project, which was initially accepted on August 3, 2004, has passed the warranty period. A satisfactory final inspection has been made of the public improvements that include: planting of street trees along Great Mall Parkway and Capitol Avenue, and renovation of the existing mulch cover on the median islands, between I-880 to the south City limits. Therefore, the Council may grant final acceptance and the contractor's bond may be released.

**Recommendation:** Adopt Resolution granting final acceptance and releasing the contractor's bond for Project No. 4133.

**\*17. Resolution Granting Final Acceptance: Great Mall Parkway/I880 Capacity Improvements, Project No. 4178 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** This project, which was initially accepted on August 2, 2005, has passed the one-year warranty period. A satisfactory final inspection has been made of the public improvements that include:

1. Convert the eastbound right lane to a free turning right
2. Widen the southbound off ramp
3. Add a third eastbound thru lane at the northbound ramp

Therefore, Council may grant final acceptance and the contractor's bond may be released.

**Recommendation:** Adopt Resolution granting final acceptance and release of the bond for Project No. 4178.

**XXI. BIDS AND CONTRACTS**

**\*18. Approve Subdivision Improvement Agreement, Final Map and Public Improvement Plans for Apton Plaza, Tract No. 9690, Project No. 3144 (Staff Contact: Mehdi Khaila, 586-3328)**

**Background:** This 94-unit mix use development will be served by public utilities located within the existing public streets and easements. The final map and improvement plans are ready for approval. Copies of the Subdivision Improvement Agreement and excerpts of the final map and improvement plans are included with the Council agenda packet. A complete set of the final map and improvement plans are available for review in the office of the City Engineer.

**Recommendation:**

1. Approve public improvement plans and final map.
2. Authorize the City Manager to execute the secured Subdivision Improvement Agreement subject to the approval of the City Attorney as to form.

**\*19. Authorize Re-advertisement for bids for the Montague Expressway Eastbound Median Modification Between Piper Drive and Gladding Court, Project No. 4179 (Staff Contact: Greg Armendariz, 586-3317)**

**Deleted:** The subject development is located next to a future Capital Improvement Project for Midtown, which calls for the improvement of Curtis Avenue from Hammond Way to Main Street that includes the construction of sidewalk, street lighting, pedestrian crossing at railroad, and under-grounding of existing overhead utilities. The Subdivision Improvement Agreement includes a reimbursement clause for the developer to oversee the design and construction of those improvements. The reimbursement will be based on actual cost and it is estimated at \$501,000. The project will be funded by redevelopment money, which needs to be appropriated to a Capital Improvement Project.¶

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**Background:** On June 20, 2006, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. The project provides for a continuous fourth through lane and pedestrian improvements along eastbound Montague Expressway at Wrigley Creek crossing. The work will include concrete work, asphalt paving, stripping, and slurry surfacing. The Engineer's estimate for the work was \$145,000.

The project was advertised and no bids were received at the bid opening on July 27, 2006. The City Attorney's Office had advised that the Public Contract Code (public notice/ posting requirements for bids) has been met and now allows the City to negotiate a bid with a contractor of its choice. Staff had then requested proposals from contractors currently working in the City. Two proposals were received for \$271,377 and \$317,919.50, approximately 187% and 219% over the engineer's estimate respectively. The bids reflect a saturated (a lot of road work) construction market. Staff recommends repackaging the plans and specifications for bid in early 2007 for better pricing in a more competitive market.

**Recommendation:** Authorize re-advertisement for bids in early 2007 for Project No. 4179.

**\*20. Approve Agreement with Norcal Waste Services for Debris Box (Staff Contact: Marilyn Nickel, 586-3347)**

**Background:** In accordance with Title V, Chapter 200 of the Milpitas Municipal Code, debris box haulers are required to apply for an agreement authorizing the hauler to engage in the business of collecting and disposing of non-organic solid waste and/or construction and demolition debris produced, kept or accumulated within the city limits of Milpitas. The haulers are required to pay the City a compensatory fee equal to 12% of the total gross receipts actually collected or received. Staff has reviewed the most recently submitted application and recommends approval of the agreement.

**Recommendation:** Authorize the City Manager to execute an agreement with Norcal Waste Services for a debris box, subject to approval as to form by the City Attorney.

**\*21. Approve Contract With Skyhawks Sports Programs for Summer 2006 Sports Camps (Staff Contact: Dale Flunoy, 586-3228)**

**Background:** For the past seven years, Recreation Services has utilized the Skyhawks Sports Programs for Kids as its vendor providing summer youth sports camps. Skyhawks Sports Programs for Kids will provide certified personnel, instruction, and supplies for the City's Summer 2006 youth sports camps. The summer sports camps include basketball, baseball, flag football, volleyball, soccer, and golf. Mini-Hawks, a pre-school age camp (4-7 years old), which serves as an introduction to sports, is also included.

(Funds are available from Recreation Services operating budget for this purpose.)

**Recommendation:** Authorize the City Manager to execute a contract with Skyhawks Sports Programs for Kids for Summer 2006 Sports Camps, for the not to exceed amount of \$27,500.00, subject to approval as to form by the City of Attorney.

**\*22. Award Bid For ADA Pedestrian Ramps to Sposeto Engineering (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** On June 29th, 2006, staff went out for bids for construction of ADA Pedestrian Ramps at various City locations. The bid was advertised in the Milpitas Post and the San Jose Mercury News, mailed to nine vendors on the City's vendor data base, and posted on the City's website. Two vendors responded and their bids are summarized below.

Sposeto Engineering, Inc.	\$58,572.00
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(Sufficient funds, including a reserve contingency of \$7,428, are available in the following Capital Improvement Projects: CP4233/ADA Pedestrian Ramps - \$38,000, CP4235/Sidewalk Replacement 2007 - \$20,572 and CP4234/Minor Street Improvements 2007 - \$7,428 for work.)

**Recommendation:** Award the bid and authorize the City Manager to execute a contract with Sposeto Engineering to construct ADA Pedestrian Ramps at various City locations for the not-to-exceed amount of \$66,000.00.

## XXII. CLAIMS AND DEMANDS

**\*23. Approve Payment of the CAL-ID Invoice to the City of San Jose in the Amount of \$58,275.  
(Staff Contact: David Rossetto, 586-2405)**

**Background:** CAL-ID is an automated fingerprint storage and retrieval system that enhances investigative procedures for law enforcement agencies in Santa Clara County. In 1989, the City Council adopted a resolution for the City of Milpitas to enter into an annual agreement with the County and other local cities to participate in the CAL-ID system. The City Council at its November 6, 2000 meeting adopted Resolution No. 7038 which allows the CAL-ID system to be operated from year to year without being subject to annual amendment, updates the prior agreement, formalizes the existence and regulates the use of reserve funds.

Milpitas' share of the annual cost is \$58,275 fiscal year 2006-2007. This amount represents an increase of \$2,527 from FY 2005-06. Funds for this have been included in the 2006-07 Police Department budget.

**Recommendation:** Approve CAL-ID invoice to the City of San Jose in the amount of \$58,275.

## XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, SEPTEMBER 5, 2006 AT 7:00 P.M.**